

Internal Revenue Service

Number: **201330011**

Release Date: 7/26/2013

Index Number: 691.00-00

Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B01

PLR-139836-12

Date:

March 05, 2013

LEGEND

Estate =

Decedent =

Trust =

Bank =

Charity 1 =

Charity 2 =

a =

b =

Date 1 =

Date 2 =

Dear :

This responds to a letter dated September 5, 2012, submitted on behalf of Estate by its authorized representative, requesting a ruling under § 691 of the Internal Revenue Code.

The information submitted states that Decedent died on Date 1, owning several individual retirement accounts (the IRAs). The Estate represents that it is the beneficiary of the IRAs.

Decedent's Will dated Date 2 provides that all assets included in the residue of the Decedent's estate shall be paid over to the Trust. Article II of the Trust provides that, upon the death of Decedent, Charity 1 shall receive a% of the residue of the Estate and Charity 2 shall receive b% of the residue of the Estate. Article III of the Trust provides that the trustee shall have the power to make allocations, divisions, and distributions of trust property in cash or in kind, or partly in each, and to allocate different kinds or disproportionate shares of property or undivided interests in property among the charitable beneficiaries.

Bank is both the personal representative of the Decedent's estate and the trustee of Trust. Bank, as personal representative and trustee, intends to assign and transfer all of the IRAs to Charity 1 and Charity 2 in accordance with Article II of Trust (the Proposed Transfers). A ruling is requested under § 691 that the Proposed Transfers will not be transfers within the meaning of § 691(a)(2).

Section 691(a)(1) provides that the amount of all items of gross income in respect of a decedent (IRD) which are not properly includible in respect of the taxable period in which falls the date of the decedent's death or a prior period (including the amount of all items of gross income in respect of a prior decedent, if the right to receive such amount was acquired by reason of the death of the prior decedent or by bequest, devise, or inheritance from the prior decedent) shall be included in the gross income, for the taxable year when received, of: (A) the estate of the decedent, if the right to receive the amount is acquired by the decedent's estate from the decedent; (B) the person who, by reason of the death of the decedent, acquires the right to receive the amount, if the right to receive the amount is not acquired by the decedent's estate from the decedent; or (C) the person who acquires from the decedent the right to receive the amount by bequest, devise, or inheritance, if the amount is received after a distribution by the decedent's estate of such right.

Section 691(a)(2) provides that if a right, described in § 691(a)(1), to receive an amount is transferred by the estate of the decedent or a person who received such right by reason of the death of the decedent or by bequest, devise, or inheritance from the decedent, there shall be included in the gross income of the estate or such person, as the case may be, for the taxable period in which the transfer occurs, the fair market value of such right at the time of such transfer plus the amount by which any consideration for the transfer exceeds such fair market value. For purposes of this

paragraph, the term “transfer” includes sale, exchange, or other disposition, or the satisfaction of an installment obligation at other than face value, but does not include transmission at death to the estate of the decedent or a transfer to a person pursuant to the right of such person to receive such amount by reason of the death of the decedent or by bequest, devise, or inheritance from the decedent.

Section 1.691(a)-4(b) of the Income Tax Regulations provides that, if the estate of a decedent or any person transmits the right to IRD to another who would be required by § 691(a)(1) to include such income when received in his gross income, only the transferee will include such income when received in his gross income. In this situation, a transfer within the meaning of § 691(a)(2) has not occurred.

Section 1.691(a)-4(b)(2) provides that if a right to IRD is transferred by an estate to a specific or residuary legatee, only the specific or residuary legatee must include such income in gross income when received.

Rev. Rul. 92-47, 1992-1 C.B. 198, holds that a distribution to the beneficiary of a decedent's IRA that equals the amount of the balance in the IRA at the decedent's death, less any nondeductible contributions, is IRD under § 691(a)(1) that is includable in the gross income of the beneficiary for the tax year the distribution is received.

Based solely on the facts and representations submitted, we conclude that the Proposed Transfers will not be transfers within the meaning of § 691(a)(2). Only Charity 1 and Charity 2 will include the amounts of IRD of the IRAs assigned and transferred to them in their gross income when the distributions from the IRAs are actually received by Charity 1 or Charity 2.

Except as specifically ruled above, we express no opinion concerning the federal tax consequences of the transaction described above under any other provisions of the Code.

This ruling is directed only to the taxpayer that requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file, a copy of this letter is being sent to Estate's authorized representative.

Sincerely,

Faith P. Colson

Faith P. Colson

Senior Counsel, Branch 1

Office of the Associate Chief Counsel

(Passthroughs & Special Industries)

Enclosures (2)

Copy of this letter

Copy for § 6110 purposes

cc: